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HARRISBURG

JUL 19 2001

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MARY E. D'ANDREA, CLERK
Per. ME
DEPUTY CLERK

KIM SMITH,

Plaintiff,

v.

JAMES MORGAN, et al.,

Defendants.

Civil Action No. 1:01-0817

(Judge Caldwell)

(Magistrate Judge Mannion)

**RESPONSE OF THE SECRETARY'S
OFFICE OF INMATE GRIEVANCES AND APPEALS**

The following information is provided in response to the Order of Magistrate Judge Malachy E. Mannion to serve upon the Court and the Plaintiff any and all information relating to the Plaintiff's exhaustion of administrative remedies concerning the following grievances.

1.) The Order listed the following grievances from SCI-Coal Township:

0062-01, 0071-01, 0072-01, 250-01, 282-01, 0108-01, 0062-01 and 0342-01.

Grievance Number 0062-01 – in process, grievance referred to Health Care on June 7, 2001. Copy of documentation attached.

Grievance Number 0071-01 – in process, rejection letter sent to inmate on February 26, 2001 requesting supporting documentation. Inmate has not responded to letter. Copy of documentation attached.

Grievance Number 0072-01 – in process, rejection letter sent to inmate on February 26, 2001 requesting supporting documentation. Inmate has not responded to letter. Copy of documentation attached.

Grievance Number 250-01 – in process, rejection letter sent to inmate on May 16, 2001 requesting supporting documentation. Inmate has not responded to letter. Copy of documentation attached.

Grievance Number 282-01 – in process, rejection letter sent to inmate on May 31, 2001 requesting supporting documentation. Inmate has not responded to letter. Copy of documentation attached.

Grievance Number 0108-01 – in process, grievance referred to Health Care on June 7, 2001. Copy of documentation attached.

Grievance Number 0342-01 – grievance received on May 11, 2001. Documentation does not exist as it is currently being reviewed for processing.

2.) The Order listed the following grievances from SCI-Smithfield:

353-01, 417-00, 413-00, 353-00, 032-00, 326-98, 419-98, 030-00.

Grievance Number 353-01 – grievance number assigned to an inmate's grievance other than Kim Smith.

Grievance Number 417-00 – appealed to final review, response letter attached.

Grievance Number 413-00 – appealed to final review, response letter attached.

Grievance Number 0353-00 – appealed to final review, response letter attached.

Grievance Number 032-00 – grievance number does not exist. Copy of documentation attached for grievance Number 032-01.

Grievance Number 326-98 – grievance sent back to inmate Smith. Copy of documentation attached.

Grievance Number 419-98 – appealed to final review, response letter attached.

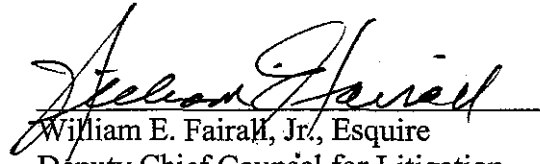
Grievance Number 030-00 – appealed to final review, response letter attached.

3.) Plaintiff requested information relating to any grievances from SCI-Camp Hill.

The previous tracking system used at SCI-Camp Hill indicates that Inmate Smith did not file any grievances during the time period from April 27, 1995 through July 7, 1995.

- 4.) Copies of relevant documents relating to each of the above grievances are attached as Exhibit A. Each and every one of these documents has previously been provided to Inmate Smith.
- 5.) This case has not as yet been delegated or assigned by the Office of Attorney General.

Respectfully submitted,



William E. Fairall, Jr., Esquire
Deputy Chief Counsel for Litigation
Attorney I.D. No. 20840

Pa. Department of Corrections •
55 Utley Drive
Camp Hill, Pa 17011
(717) 731-0444

Dated: July 18, 2001

TAB - 1

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
2520 LISBURN ROAD, P.O. BOX 598
CAMP HILL, PA 17001-0598

THE SECRETARY'S OFFICE OF
INMATE GRIEVANCES AND APPEALS

June 7, 2001

Kim Smith, CT-2162
SCI Coal Township

Re: DC-ADM 804 -- Final Review

~~Grievance Nos. COA-0062-01 and COA-0108-01~~

Dear Mr. Smith:

This is to acknowledge receipt of your appeal to final review of the above numbered grievances.

In accordance with the provisions of DC-ADM 804, effective January 1, 2001, I have reviewed the entire record of these grievances; including your initial grievance, the grievance officer's response, your appeal from initial review and the superintendent's response. I have also carefully reviewed the issues you raise to final review.

Upon completion of this review, it is the decision of this office to refer these grievances to the Bureau of Health Care Services for review. Upon completion of this review, I will then complete final review of your grievances and provide you with a written response.

This letter is to advise you that final review will be delayed pending review by the Bureau of Health Care Services.

Sincerely,



Thomas L. James
Chief Grievance Coordinator

TLJ/kp

cc: Superintendent Gillis

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
2520 LISBURN ROAD, P.O. BOX 598
CAMP HILL, PA 17001-0598

THE SECRETARY'S OFFICE OF
INMATE GRIEVANCES AND APPEALS

February 26, 2001

Kim Smith, CT-2162
SCI Coal Township

Re: Final Review
COA-0071, 0072-01

Dear Mr. Smith:


This is to acknowledge receipt of your letter to this office. Upon review of your letter, it is the decision of this office to file your letter without action because you have failed to comply with the provision(s) of the revised DC ADM 804 effective January 2, 2001.

In accordance with the provisions of the DC-ADM 804, VI D, 1, a proper appeal to final review should include photocopies of the Initial Grievance, Initial Review, the Appeal to the Facility Manager, and the Facility Manager's decision. The text of your appeal to this office shall be legible, presented in a courteous manner, and the statement of facts shall not exceed two (2) pages.

You have failed to include your appeal to the Superintendent and the Superintendent's response to your appeal.

Review of the record reveals that your appeal is incomplete. An appeal at this level will not be permitted until you have complied with all procedures established in DC ADM 804.

Sincerely,



Tshanna C. Kyler
Administrative Assistant

File

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
2520 LISBURN ROAD, P.O. BOX 598
CAMP HILL, PA 17001-0598

THE SECRETARY'S OFFICE OF
INMATE GRIEVANCES AND APPEALS

May 16, 2001

Kim Smith, CT-2162
SCI Coal Township

RE: DC-ADM 804 - Final Review
Grievance No. COA-0250-01

Dear Mr. Smith:

This is to acknowledge receipt of your letter to this office. Upon review of your letter, it is the decision of this office to file your letter without action because you have failed to comply with the provision(s) of the revised DC-ADM 804 effective January 1, 2001.

In accordance with the provisions of the DC-ADM 804, VI D, 1, a proper appeal to final review should include photocopies of the Initial Grievance, Initial Review, the Appeal to the Facility Manager, and the Facility Manager's decision. The text of your appeal to this office shall be legible, presented in a courteous manner, and the statement of facts shall not exceed two pages.

Review of the record reveals that your appeal is incomplete. You have failed to provide this office with the required documentation that relates to your appeal. An appeal at this level will not be permitted until you have complied with all procedures established in DC-ADM 804. Any further correspondence from you regarding this grievance, which does not contain the required documents needed to conduct final review, will result in a dismissal of your grievance.

Sincerely,



Tshanna C. Kyler
Administrative Assistant

TCK/ms

cc: Superintendent Gillis
Grievance Office
Central File

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
2520 LISBURN ROAD, P.O. BOX 598
CAMP HILL, PA 17001-0598

THE SECRETARY'S OFFICE OF
INMATE GRIEVANCES AND APPEALS

May 31, 2001

Kim Smith, CT-2162
SCI Coal Township

RE: DC-ADM 804 -- Final Review
~~Grievance No. COA-0282-01~~

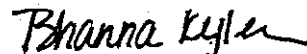
Dear Mr. Smith:

This is to acknowledge receipt of your letter to this office. Upon review of your letter, it is the decision of this office to file your letter without action because you have failed to comply with the provision(s) of the revised DC-ADM 804 effective January 1, 2001.

In accordance with the provisions of the DC-ADM 804, VI D, 1, a proper appeal to final review should include photocopies of the Initial Grievance, Initial Review, the Appeal to the Facility Manager, and the Facility Manager's decision. The text of your appeal to this office shall be legible, presented in a courteous manner, and the statement of facts shall not exceed two pages.

Review of the record reveals that your appeal is incomplete. You have failed to provide this office with the required documentation that relates to your appeal. An appeal at this level will not be permitted until you have complied with all procedures established in DC-ADM 804. Any further correspondence from you regarding this grievance, which does not contain the required documents needed to conduct final review, will result in a dismissal of your grievance.

Sincerely,



Tshanna C. Kyler
Administrative Assistant

TCK/ms

cc: Superintendent Gillis
Grievance Office
Central File

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
2520 LISBURN ROAD, P.O. BOX 598
CAMP HILL, PA 17001-0598

THE SECRETARY'S OFFICE OF
INMATE GRIEVANCES AND APPEALS

December 13, 2000

Kim Smith, CT-2162
SCI Smithfield

Re: DC-ADM 804 - Final Review
Grievance No. SMI-0413-00
SMI-0417-00

Dear Mr. Smith:

Your appeal of the above-referenced grievances has been received by this office for review. However, our inquiry into this matter reveals that you have not yet appealed to the Superintendent of your institution as required by DC-ADM 804, VI D, 2. Until this appeal is completed, final review cannot be granted. Upon receiving the response from your appeals to the Superintendent, you may once again submit a timely written appeal for final review.

This response does not grant you a right to an appeal if it would otherwise be untimely to pursue that appeal. However, in evaluating the timeliness of any appeal you submit, the time consumed by erroneously directing your appeal to this office may be disregarded at the discretion of the recipient of your next appeal.

Sincerely,



Thomas L. James
Chief Grievance Coordinator

TLJ:tck

pc: Superintendent Morgan

(3)
cc. Bulky
Counselor
12-15

PART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17011

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO. SMI-417

TO: (Name & DC No.)	INSTITUTION	QUARTERS	GRIEVANCE DATE
KIM SMITH, CT2162	SCIS	E/A/2029	11/03/00

The following is a summary of my findings regarding your grievance:

I am in receipt of your grievance wherein you indicate that you have been unjustly placed into the control unit and that a transfer has been denied.

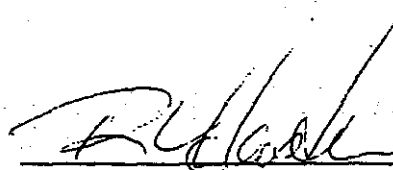
While it is true that PRC had previously denied a transfer request, that decision changed following your day control unit review. I was unaware of PRC's previous stance on this issue and as a result, authorized the circulation of a transfer vote sheet for separation purposes. That recommendation was approved, and a transfer request is pending. My rationale for supporting the transfer was based on the concern for the safety of staff. Your refusal to discuss your stance with regard to staff (and your) safety is interpreted by me as an unacceptable risk, and therefore, I support your transfer to the farthest location from your home region.

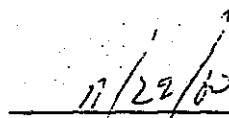
Your placement in the control unit is consistent with policy promulgated by Superintendent Morgan and is less restrictive than placement into administrative custody. Your placement into the unit is viewed as appropriate given your current and past circumstances, and that decision will stand pending the results of your transfer request.

Lastly, you should not consider a transfer (if approved by Central Office) as a solution to your Smithfield difficulties. Your difficulties are a result of your behavior, and that will follow you wherever you go.

rlh/jm

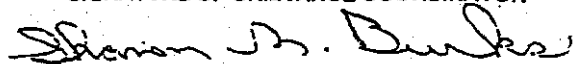
cc: Superintendent Morgan
Major Norris
Captain Glenny
Mr. Royer
DC-14
DC-15
File


R. L. Heaster, Unit Manager


Date 11/22/00

Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.

SIGNATURE OF GRIEVANCE COORDINATOR



DATE

11/27/00

DC-804
PART 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

5m-4)

TO: GRIEVANCE COORDINATOR <i>Burke</i>	INSTITUTION <i>S.C.I.S.</i>	DATE <i>11-3-</i>
FROM: (Commitment Name & Number) <i>Kim Smith C.T. 2162</i>	INMATE'S SIGNATURE <i>Kim Smith</i>	
WORK ASSIGNMENT <i>N/A</i>	QUARTERS ASSIGNMENT <i>E-A-29</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

In Sept. I was told by P.B.C. and A. Zimmerman that I was to be transferred. According to A. Zimmerman because I would not cooperate and advise her of my intent towards C.O. Khyas that I would not be transferred. How could Zimmerman expect me to incriminate myself for a issue such as this. Then punish me by placing me ex. control unit, and deny transfer, for reason. Claiming I refused transfer, which I did not, I want a of this place in the worse way. Why am I being punished if it is cruel to hold me on C/U based on A. Zimmerman's expectation that I must cooperate and incriminate ^{myself} and inform her of my intent based on this idealism. If I do not to be transferred in am I being held on C/U. and is such justifiable (SEE ATTACHED

B. Actions taken and staff you have contacted before submitting this grievance:

A. Zimmerman, Lt. Shoop, Buxario, Wm. Mag. Heaster, Ms. Hannah, D. Williamson.

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Grievance Coordinator

Amk

Date


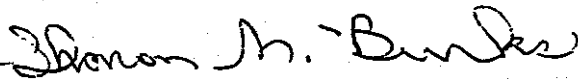
DC-804
Part II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17011

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

SMI-413-00

TO: (Name & DC NO.) Smith, Kim CT2162	INSTITUTION SCIS	QUARTERS E A 2029	GRIEVANCE DATE 11-10-00
<p>The following is a summary of my findings regarding your grievance: In inmate Smith's grievance, he states that he is being denied idle pay because he is in the control unit and through no fault of his own he is being denied idle pay.</p> <p>Inmate Smith, CT2162, is not receiving maintenance payroll (idle pay) because on June 14, 2000 he received a misconduct and was removed from his job by the hearing examiner, also on June 16, 2000 he received a Class I Category A misconduct. As per the following DC ADM 816 F (2) any employed inmate found guilty of a Class I Category A misconduct shall be removed from his work assignment. DC ADM 816 I (1) Inmates who do not have a work assignment, including education, through no fault of their own are eligible to receive a daily allowance. Inmate Smith does not have a job due to his behavior and subsequent job removal. Also DC ADM 816 I (3) Inmates who are terminated from a work assignment are ineligible for a daily allowance until unit team action or reassignment.</p> <p>DOC policy and procedures have been properly followed in regards to inmate Smith's job removal and loss of maintenance payroll. The employment office will continue to provide assistance to inmate Smith's pursuit of employment provided it is within the guidelines set forth in DC ADM 816.</p> <p>Category: Work</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 45%;"> <p>cc: Superintendent Morgan Major Tennis Captain Glenn Mr. Royer DC-15 File</p> </div> <div style="width: 45%; text-align: center;">  Brian Lightner Employment Officer 11-22-00 </div> </div>			
Refer to DC-ADM 804, Section VII for Instructions on grievance system appeal procedures	SIGNATURE OF GRIEVANCE COORDINATOR 		Date 11/22/00

DC-804
PART 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

413
Smi - ~~413~~

TO: GRIEVANCE COORDINATOR <i>Mr. Barker</i>	INSTITUTION <i>SCIS</i>	DATE <i>11-10-00</i>
FROM: (Commitment Name & Number) <i>Kim Smith CT 916.2</i>	INMATE'S SIGNATURE <i>Kim Smith</i>	
WORK ASSIGNMENT <i>N/A</i>	QUARTERS ASSIGNMENT <i>E-A-39</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

I have advised that I can not get idol pay because I'm on central unit. Phuong, my friend, my own G. Zimmerman determined the denial of transfer and this placement claiming I would not cooperate, and inform her of my intent towards C. Whyang. I told her I intended to see him, and it appearing to be good enough for her standard or expectation. If this issue I throw no fault at my own for being denied idol pay, she no control over staffs opinionated determination, and being held in a unit based on their determination, it would appear to be my fault idol pay is being asked from dept in 2000 to the date and forward. This confinement on Central Unit is not my fault and I want to be being denied idol pay.

B. Actions taken and staff you have contacted before submitting this grievance:

Biviano, A. Zimmerman, Greeter, Employment Office

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Sharon M. Barker

Signature of Grievance Coordinator

11/15/00

Date

Form DC-135A		Commonwealth Department	Sharon - Control Unit review should occur in mid-Dec. Bizz
INMATE'S REQUEST TO STAFF MEMBER		INSTR Complete items number 1-4 preparing your request, it is promptly and intelligently.	
1. To: (Name and Title of Officer) <u>P.R.C.</u>	2. Date:		
3. By: (Print Inmate Name and Number) <u>Wm. Smith C. 2162</u> <u>Wm. Smith</u> Inmate Signature	4. Counselor's Name <u>C. Zimmerman</u> 5. Unit Manager's Name <u>Heater</u>		
6. Work Assignment <u>N/A</u>	7. Housing Assignment <u>F-A-29</u>		
8. Subject: State your request completely but briefly. Give details. <p>When I was P.R.C. it was determined that an investigation into my claims would be done. There was no fault of my own and being held on C/U. But C. Zimmerman states I will not get a transfer because it will not comply with her and talk her up. I am not towards C.O. Why don't I talk her & extend the due him is not demonstrated any behavior that may be supports a placement on C/U as my reasoning you may not have not demonstrate me as being a problem. But my past behavior does not prove me as being a problem inmate.</p> <p>There is no fault of my own and determination beyond my power why am I being denied id. pay. Bids asked this issue to C. Zimmerman, Heater, Employment, & Human</p>			
9. Response: (This Section for Staff Response Only) <p>Mr. Smith -</p> <p>I'm not sure I understand your request slip as it is difficult to read. I will attempt to answer as best I can. Capt. Henry's investigation found no reason for you to be transferred. You have continued to make verbal threats of what you might do if returned to general population. Therefore you are in the Control Unit. The other alternative would be to maintain you in AC State. If you can convince your unit team that you will return to population without incident, PRC would certainly consider releasing you to the vote sheet process.</p>			
To DC-14 CAR only <input checked="" type="checkbox"/>		To DC-14 CAR and DC-15 IRS <input type="checkbox"/>	

Staff Member Name

Print

FR Payer
Sign

Date

11/15/00

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
2520 LISBURN ROAD, P.O. BOX 598
CAMP HILL, PA 17001-0598

THE SECRETARY'S OFFICE OF
INMATE GRIEVANCES AND APPEALS

December 13, 2000

Kim Smith, CT-2162
SCI Smithfield

Re: DC-ADM 804 - Final Review
Grievance No. SMI-0353-00

Dear Mr. Smith:

This is to acknowledge receipt of your appeal to final review of the above numbered grievance.

In accordance with the provisions of DC-ADM 804, VI D, as amended effective November 1, 1997, I have reviewed the entire record of this grievance; including your initial grievance, the Grievance Officer's response, your appeal from initial review and the Superintendent's response. I have also carefully reviewed the issues you raise to final review.

Upon completion of this review, it is the decision of this office to uphold the responses provided by staff at the institutional level. I find the issues raised for final review have been addressed by the Grievance Coordinator and the Superintendent, and their responses are reasonable and appropriate.

I concur with the responses already provided at the institution level. Accordingly, your appeal to final review must be denied.

Sincerely,



Thomas L. James
Chief Grievance Coordinator

TLJ:tck

pc: Superintendent Morgan

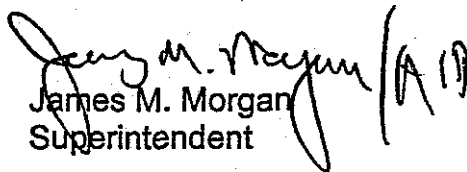
③
cc: Bunk
Counselor
DL-15

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
SCI-Smithfield
Superintendent's Office
November 2, 2000

SUBJECT: Appeal of Inmate Grievance #SMI-353-00

TO: Kim Smith, CT-2162
H/2

FROM: James M. Morgan
Superintendent

A handwritten signature in dark ink, appearing to read "James M. Morgan", followed by a large, stylized initial "A" or "B" in parentheses.

The following is in response to your appeal dated October 5, 2000, received on October 10, 2000, of the grievance officer's response to you with reference to the above noted inmate grievance. After review of your original grievance and your appeal, and the response provided by Major Norris, please be advised that your appeal is denied and the findings of the grievance officer are sustained in full.

JMM:ACB:sdw

cc: Deputies (2)
Major Norris
Mrs. Burks
DC-15
File

DC-804**PART II**

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17011**

**OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE**

GRIEVANCE NO.

SMI - 353-00

TO: (Name & DC #)	INSTITUTION	QUARTERS	GRIEVANCE DATE
CT-2162 Smith	SCI-Smithfield	H/2/32	9/26/00

For your information policy 6.5.1 Administration of Security Level 5 Housing Units became effective September 1, 2000, by the authority of Martin F. Horn, Secretary of Corrections.

The policy requires the institution to issue the RHU Inmate Handbook to inform inmates of the rules and regulation of the RHU. Also, part of the policy requires the Major of the Guard and the Deputy for Facility Management to review/revise the handbook annually. That is the reason for the signature on the front of the handbook.

In that no policy has been violated, your grievance is denied.



**Dale M. Norris
Major of the Guard**

Category: Search

**cc: Superintendent J. Morgan
Captain R. Glenny
DC 15
File**

**Refer to DC-ADM 804, Section VIII,
for instructions on grievance
system appeal procedures.**

SIGNATURE OF GRIEVANCE COORDINATOR



DATE

10/3/00

DC-804
PART 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

5mi-35

TO: GRIEVANCE COORDINATOR <i>Mr. Banks</i>	INSTITUTION <i>S.C.I.S</i>	DATE <i>9-26-00</i>
FROM: (Commitment Name & Number) <i>Jim Smith CT 2162</i>	INMATE'S SIGNATURE <i>Jim Smith</i>	
WORK ASSIGNMENT <i>N/A</i>	QUARTERS ASSIGNMENT <i>H-2-32</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

*at IT-A-1 new RHU Policy is unconstitutional as Rule 9
Marrio Major of the Guard, & John A. Lowrey Deputy
Facility Management are not Policy makers for the D.O.
and this is not a state wide policy, and to act as pol
maker for the D.O.C. is an abuse of power and official
title 15 § 5301 (i)(2) as: I'm not on death row; and this
institution has no right enforcing such policy on me since
I'm not under status of capital punishment. I'm a Federal
protected and state protected right as well as a liberty int
to be free from this form of punishment it would be
a clear showing of 5th amendment, discrimination, policy of
Practice Due Process. Unjustifiable maintain infliction & matters*

B. Actions taken and staff you have contacted before submitting this grievance:

Major Marrio 405 Kempt St. Lancaster Sgt Banks

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Sharon M. Banks

Signature of Grievance Coordinator

10/1/00

Date

DC-ADM 804, Inmate Grievance S_y m

Attachment B

DC-804
Part 2COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

COA

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

SMI-032-01

TO: (Inmate Name & DC No.)	FACILITY	HOUSING LOCATION H/B	GRIEVANCE DATE
Kim Smith CT-2162	SCI-Smithfield		1/05/00

The following is a summary of my findings regarding your grievance:

You are indicating that the Corrections Health Care Administrator has denied you the use of the C-Pap device. You state you never refused to use this instrument.

Disposition:

I am answering this request without the medical record. You have been transferred to another institution to which the medical record has been forwarded. What I remember of this situation is that you were placed in the Restricted Housing Unit. Medical staff observed that you had sufficient length of electrical cord on the device to plug into the electrical socket and use the device. You were not satisfied with this, therefore, you chose not to utilize the device for several months. You bring up the issue of an extension cord. Since it was determined that the device was useable without the extension cord, an extension was not provided. I also remember that before you got to the RHU there was a signed refusal on the medical record to access the machine. Several months without the use of the machine produced no problems for you, therefore, Dr. Long discontinued the order for using the machine. This order was generated after I instructed medical staff to review the issue again for reissuing of the machine, prompted by Ms. Hannah's (Unit Manager) request that you wanted the machine again.

Category: Health CARE

Cc: Superintendent Morgan
Major Norris
DC-15
File

Print Name and Title of Grievance Officer	SIGNATURE OF GRIEVANCE OFFICER	DATE
George Weaver Corrections Health Care Administrator		1/12/01

DC-804

PART 1

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

5mj-032

TO: GRIEVANCE COORDINATOR <i>S. Burke</i>	INSTITUTION <i>SCIS</i>	DATE <i>1-05-01</i>
FROM: (Commitment Name & Number) <i>Kim Smith CT2162</i>	INMATE'S SIGNATURE <i>Kim Smith</i>	
WORK ASSIGNMENT <i>N/A</i>	QUARTERS ASSIGNMENT <i>H-B-13</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

On 1-04-00 I was told by Ms. Hannah that CHCA G. Weener stated I refused to use C-Pap device. I think I did not. On 1-03-01 me and Mr. Pulmiller went over medical chart and there was no evidence that I refused such. In June 2000 this device was taken from my property as well as a knee sleeve, and back brace. At that time Weener stated to contact him if I need the device, all request since then have not been addressed and he is now denying me this health care, since I never refused such, and cells on J-H Block do not have power to use device as well as an extension cord to safely use the device.

B. Actions taken and staff you have contacted before submitting this grievance:

Mr. Long; Lt. Lear; Mr. Weener; C.O. Long
A. Zimmerman; C.O. Sigel; Ms. Hannah

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Sharon M. Burke

Signature of Grievance Coordinator

1/5/01

Date

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
State Correctional Institution at Smithfield
Correction's Health Care Administrator's Office
(814) 643-6520
August 3, 1998

SUBJECT: Grievance SMI-326-98
Kim Smith CT2162

TO: Sharon Burks
Assistant to the Superintendent

FROM: Patricia A. Yarger *PAY*
Corrections Health Care Administrator

Grievance SMI-326-98 has already been sent to the Bureau of Health Care Services at Camp Hill. It is in the process of being reviewed by Dr. Lewis; therefore, I am returning this grievance to you as I have no further comments at this time.

PAY:smm

Attachment

cc: File

DC-135A

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

INMATE'S REQUEST TO STAFF MEMBER

INSTRUCTIONS

Complete Items Number 1-7. If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.

1. TO: (NAME AND TITLE OF OFFICER)

Mr. Burk Asst. Warden

2. DATE

8-19-98

3. BY: (INSTITUTIONAL NAME AND NUMBER)

Don Smith, CT 162

4. COUNSELOR'S NAME

Counselor

5. WORK ASSIGNMENT

Kitchen

6. QUARTERS ASSIGNMENT

B-1-59

7. SUBJECT: STATE COMPLETELY BUT BRIEFLY THE PROBLEM ON WHICH YOU DESIRE ASSISTANCE. GIVE DETAILS.

Reason for this request is an concern about your decision as well as George, Capt. Morgan regard a grievance I filed for being denied health care treatment. You state agree it is my desire to have your reply on this matter so the request steps can be taken to obtain medical treatment for this problem. If I do not hear from your office in 20 days on this matter, I will consider my grievance denied and that you are enforcing the denial of medical treatment for my state of care problem.

Thank You

8. DISPOSITION: (DO NOT WRITE IN THIS SPACE)

☐ TO DC-14 CAR ONLY☐ TO DC-14 CAR AND DC-15 IRS

STAFF MEMBER

DATE

COMMONWEALTH OF PENNSYLVANIA
State Correctional Institution at Smithfield
Office of the Superintendent's Assistant

MEMORANDUM

DATE: August 13, 1998

SUBJECT: VOIDED GRIEVANCE NO. SM I - 326-98

TO: Kim Smith CT2162
I-block

FROM: Sharon M. Burks
Superintendent's Assistant

The subject grievance that you submitted on 7/29/98 has been voided/
cancelled for the following reason(s):

Since you circumvented the grievance
procedure by writing directly to
Camp Hill. Dr. Lewis, Bureau of
Health Care Services, will be responding
to your complaint.

cc:

File

D8-13

DC-804
PART 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

Smi-326-98

TO: GRIEVANCE COORDINATOR <i>Mr. Burke</i>	INSTITUTION <i>SCIS</i>	DATE <i>7-29-98</i>
FROM: (Commitment Name & Number) <i>Smith (T-34)</i>	INMATE'S SIGNATURE <i>Smith</i>	
WORK ASSIGNMENT <i>Kitchen</i>	QUARTERS ASSIGNMENT <i>I-A-39</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

After getting a span, sleep study and pulmonary test
 Per order a C₃ pap on oxygen mask during sleep to
 help breath during sleep since I was test and I
 stop breathing during sleep numerous of times for
 a number of seconds. This prolonged period of not
 breathing has a damage effect on heart, lungs and
 brain, as with deliberate indifference to my health
 care need and the life threatening aspect, I was
 denied, and Dept of Correction refused to treat
 this problem, after taking me there a number
 of times to find the problem, only to refuse treatment
 which is causing mental anguish, fear and ^{and irreparable} denial of medical ^{treatments}

B. Actions taken and staff you have contacted before submitting this grievance:

Dr. Long, Pat Nijer, Health Care at Camp
 Hill Control Office, Bureau of Health Care
 Dr. Long asked me to take these steps to obtain
 treatments.

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Sharon M. Burke

Signature of Grievance Coordinator

7/31/98

Date

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022

OFFICE OF THE
CHIEF HEARING EXAMINER

January 25, 1999

Kim Smith, CT-2162
SCI Smithfield

Re: DC-ADM 804 - Final Review
Grievance No. SMI-0418-97 and SMI-0419-98

Dear Mr. Smith:

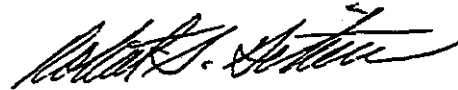
Your request for appeal to final review of the above noted grievance is hereby acknowledged.

In accordance with the provisions of DC-ADM 804, VI, D, as amended effective November 1, 1997, I have reviewed Grievance Nos. SMI-0418-98 and SMI-0419-98 and all documents related to your appeal at the institutional level and this office.

After a careful evaluation of the entire record, it is the decision of this office that your appeal to final review be dismissed. Review of the record reveals that on October 13, 1998, you refused two opportunities to be seen by Dr. Long to discuss the issues raised in your grievance. Having refused to discuss your issues with the Medical Director at initial review, you cannot appeal the response provided at initial review.

For the above stated reasons, your appeal to final review is dismissed.

Sincerely,



Robert S. Bitner
Chief Hearing Examiner

RSB:ph

pc: Superintendent Morgan

cc: Ms. Burks
Counselor (3)
DC-15

Department of Corrections
SCI-Smithfield
Superintendent's Office
December 30, 1998

SUBJECT: APPEAL TO GREIVANCE 418/419-98

TO: Kim Smith CT2162
I Block

FROM: James M. Morgan, Superintendent

This is in response to your appeal of the above subject grievance, wherein you contend that you were not given the opportunity to speak to the medical director regarding the copay issue.

If you had remained in the medical department, you would have received an explanation of the copay charge. However you took it upon yourself to make certain assumptions and left prior to being provided with an explanation. I find no merit to your grievance and it is denied.

cc: G. Weaver, CHCA
Ms. Burks
DC-15
File

-DC-804
PART II

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001-0598

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO. SMI-418-98/SMI-419-98

To: (Name and DC No.)	Institution	Quarters	Grievance Date
Kim Smith CT-2162	Smithfield	I/B 2042-01	10/09/98

The following is a summary of my findings regarding your grievance:

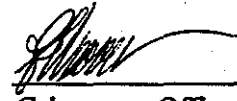
You state you were seen in June or July for a boil and you were charged co-pay. You again signed up in September the same problem and were again charged co-pay. You feel this is abuse of policy. Also, you state you are being denied treatment for sleep apnea.

Disposition:

On 10/13/98, Dr. Long has you scheduled for MD line to discuss both this problem and the perceived problem of medical co-pay. However, you left the Medical Department at 0940 without being seen. At 1015 hours, you were called back to medical and you refused to sign a release of responsibility, and again left medical without being seen. Since you were offered an opportunity to talk with the Medical Director and would not stay to do it, I find no merit in your grievance.

Category: Medical

cc Superintendent Morgan
Major Tennis
Captain Glenney
DC-15
File


Grievance Officer 10/19/98

Refer to DC-ADM 804, Section VIII for instructions on grievance system appeal procedures.

SIGNATURE OF GRIEVANCE COORDINATOR



DATE

10/22/98

DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

Smi-4

TO: GRIEVANCE COORDINATOR <i>Banks</i>	INSTITUTION <i>SCIS</i>	DATE <i>10-9-</i>
FROM: (Commitment Name & Number) <i>James Smith CT2162</i>	INMATE'S SIGNATURE <i>James Smith</i>	
WORK ASSIGNMENT <i>Litterer</i>	QUARTERS ASSIGNMENT <i>I-B-42</i>	

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

I was injured, was treated for a nail and gave a sit-bath and medication which I was charged. On this problem, did not clean up but I was treated for the same but gave sit-bath and medication and once again charged. Since this is an ongoing medical condition, I should not be charged for sit-treatment. This is a direct abuse of abuse of policy, and it calls into question the conduct of medical personnel and the treatment of inmates who are unable to repeatedly return to medical for the same thing and he repeatedly charges for the problem. This kind of abuse should not stand.

B. Actions taken and staff you have contacted before submitting this grievance:

*This date Mr. McMillon, Pat Gasper, Mr. James
spun request.*

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Sharon H. Banks

Signature of Grievance Coordinator

10/13/98
Date

DEPARTMENT OF CORRECTION

P.O. BOX 598

CAMP HILL, PA. 17001-0598

OFFICIAL INMATE GRIEVANCE

GRIEVANCE NO.

Smi-419-

TO: GRIEVANCE COORDINATOR

INSTITUTION

DATE

FROM: (Commitment Name & Number)

INMATE'S SIGNATURE

WORK ASSIGNMENT

QUARTERS ASSIGNMENT

INSTRUCTIONS:

1. Refer to the inmate handbook Page 12 and DC-ADM 804 for information on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. Next, you are required to list in Block B the specific actions you have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Brief, clear statement of grievance:

On Sept 1 I saw Dr. Long regarding treatment for pneumonia. At which time I was told during a hour of sleep I stop breathing 16 times at between 16-25 seconds each. After contacting Warden, Dr. Lewis and other health care persons I feel that this medical treatment is being given with deliberate indifference to my health care needs and safety. Why did they take me through testing only to refuse treatment because of the damaging effect it is having on my heart and brain. I bring this matter to your attention.

B. Actions taken and staff you have contacted before submitting this grievance:

Warden, Med. Dept, Camp Hill, Pa. Health Dept, Warden, Dr. Lewis C.H. Dr. Long and other persons.

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Sharon M. Burk

Signature of Grievance Coordinator

10/13/98

Date

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022

RECD MAR 20 2000

OFFICE OF THE
CHIEF HEARING EXAMINER

March 14, 2000

Kim Smith, CT-2162
SCI Smithfield

Re: DC-ADM 804 - Final Review
Grievance No. SMI-0005-00, SMI-0029-00 and SMI-0030-00

Dear Mr. Smith:

This is to acknowledge receipt of your appeal to final review of the above numbered grievances.

In accordance with the provisions of DC-ADM 804, VI D, as amended effective November 1, 1997 I have reviewed the entire record of these grievances; including your initial grievance, the Grievance Officer's response, your appeal from initial review and the Superintendent's response. I have also carefully reviewed the issues you raise to final review.

Upon completion this review, it is the decision of this office to uphold the responses provided by staff at the institutional level. I find the issues raised for final review have been addressed by the Grievance Coordinator and the Superintendent, and their responses are reasonable and appropriate.

I concur with the responses already provided at the institution level. Accordingly, your appeals to final review must be denied.

Sincerely,



Robert S. Bitner
Chief Hearing Examiner

RSB:ph
pc: Superintendent Morgan

③
cc: Causada
DL-15
MS. Bunk

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KIM SMITH,

Plaintiff,

v.

JAMES MORGAN, et al.,

Defendants.

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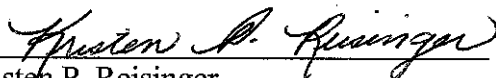
Civil Action No. 1:01-0817

(Judge Caldwell)

(Magistrate Judge Mannion)

VERIFICATION

I, Kristen P. Reisinger, Assistant Chief Grievance Coordinator, with the Pennsylvania Department of Corrections have reviewed the attached Response of the Secretary's Office of Inmate Grievances and Appeals and hereby verify that the information is true and correct to the best of my knowledge, information and belief. I knowingly make this verification according to 28 U.S.C. §1746 relating to unsworn statements.



Kristen P. Reisinger
Assistant Chief Grievance Coordinator
Pennsylvania Department of Corrections

Dated: July 19, 2001

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KIM SMITH,

Plaintiff,

v.

JAMES MORGAN, et al.,

Defendants.

Civil Action No. 1:01-0817

(Judge Caldwell)

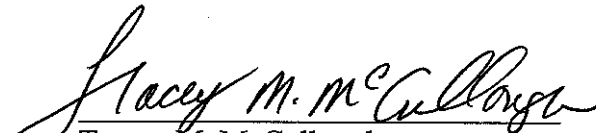
(Magistrate Judge Mannion)

PROOF OF SERVICE

I hereby certify that I have caused to be served upon the below-listed individual the Response of the Secretary's Office of Inmate Grievances and Appeals in the manner indicated below:

Service by first class mail
addressed as follows:

Kim Smith, CT-2162
SCI-Coal Township
1 Kelley Drive
Coal Township, PA 17866-1020


Tracey M. McCullough
Administrative Officer

Pa. Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: July 19, 2001